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SUBJECT: PANAMA: NEW SUPREME COURT CHIEF JUSTICE RECEIVES
AMBASSADOR

Classified By: Ambassador William A. Eaton. Reason: 1.4(d).

Summary

¶1. (SBU) Recognizing that Panama's judiciary has "a corruption problem" and believing that he has limited powers to sway the opinion of the court's other magistrates, newly installed Supreme Court President Harley Mitchell told Ambassador on January 14 that he planned to use his authority and bully pulpit to lay out a vision to make the justice system more open and transparent. Mitchell asserted that he was already implementing elements of his vision and testing his power by personally asking the magistrates to be more accountable and to report on cases that have been pending in their hands for long periods of time. Where necessary, Mitchell said he intended to use the clout of public opinion to encourage fellow Supreme Court justices to render opinions on cases that have been pending for years. During the meeting, the Chief Justice identified structural weaknesses within the legal system. In response, he is taking a multi-faceted approach to improving the justice system. Mitchell comes across as a man with a plan to shake up and improve operations within the Court. Mitchell was elected in 2008 with six "yes" votes and three abstentions from the nine members of the Supreme Court. End Summary.

Problems Throughout the Court System

¶3. (SBU) Mitchell jumped right into laying out his plans for his presidency. Recognizing that the judiciary had a corruption problem, Mitchell identified several structural weaknesses, including:

-- Offices that exist in name only: Several offices and commissions that were on the court's organizational chart had only minimal personnel and resources, Mitchell noted. For example, the Penitentiary Commission scheduled court appearances, but had only one staff person for the entire country, Mitchell explained, so work-arounds to schedule appearances were common. Concerned by allegations that certain judges always decided cases in favor of a particular group or individual, Mitchell said he asked his

staff for statistics on the rulings of different judges, only to learn that the Office of Statistics only had three staff and did not track this type of information.

-- Minimal Personnel and Resources Attached to the Office of the Presidency: The President of the Supreme Court rotated yearly, Mitchell noted, and each magistrate was permanently assigned to a particular jurisdictional chamber (sala) (e.g., civil, criminal, constitutional) within the Supreme Court. Previous presidents borrowed personnel from these chambers when they became Chief Justice. Mitchell attributed the number of pending actions within his office, some dating back five years, to a lack of continuity and inadequate staffing.

-- Unresolved court cases that date back many years: Mitchell said he had found a Supreme Court case that went back to 1981 -- 26 years -- without resolution. He personally intervened in the case, ruling in favor of an 86-year woman who had lost an eye due to negligence at a Social Security Hospital. While this might be an extreme case, Mitchell said it was not uncommon for cases to remain in the Supreme Court for several years.

-- An overwhelmed court system: Mitchell said that he had recently visited a prison in Panama and spoke to a detainee who had been there for 54 months without charges. According to Mitchell, 51 percent of the people in jail were still waiting their trials. He noted that for homicide cases, the court system was so backlogged that if charges were filed now, trial dates were scheduled beginning in September 2009.

Mitchell,s Outreach Program

14. (SBU) Since his election, Mitchell said he had placed great emphasis on meeting with representatives from different sectors, including: the executive and judiciary, the private sector, NGOs, business associations, and labor. He said he had also met with members of the diplomatic and donor communities. He said that he wanted to learn first hand the issues and concerns that these various groups had concerning the justice sector.

Mitchell,s Plan

15. (SBU) Mitchell said he was taking a multi-faceted approach to improving the justice system:

-- Digitization: Mitchell said he would spearhead efforts to digitize court documents, including those cases where rulings had already been handed down so that judges could readily refer to past cases. He said that digitizing cases at the Supreme Court level would allow justices to simultaneously review a particular case rather than have it move from one magistrate to another.

-- Enhancing transparency by using the web: Providing a web site where people could access a particular case to learn its status, which magistrate had it, and how long a magistrate has had it would enhance transparency, Mitchell asserted. Mitchell said this measure would serve as an incentive for judges to rule more quickly on a case.

-- Lobbying for increased funding: He said that he had already met with the Minister of Economy and Finance (MEF), who was supportive of his efforts to modernize the court system and expedite court cases and was generally receptive to an increased budget request.

-- Lobbying the National Assembly: Mitchell said he would lobby the legislature to change laws to improve the performance of the justice system. He said that he was not

adverse to directly presenting proposed legislation to the National Assembly, something that previous presidents had seldom done but of which he intended to make more use.

-- Securing International Assistance: The Supreme Court President said he would seek international assistance from different countries and MDBs to help implement his plans, citing specifically the U.S., the EU, Spain, and Brazil. Ambassador offered to help coordinate/host some of these meetings, an offer for which Mitchell was appreciative. Ambassador said that as Mitchell's plans developed, the U.S. remained interested in assisting where it could and

urged Mitchell to call on the U.S. as needs arose.

Comment

¶6. (C) Supreme Court Justice Adan Arjona (protect) told DCM that soon after Mitchell took office, the Chief Justice organized a meeting with five other justices (Esmeralda Troitino, Adan Arjona, Victor Benavides, Oyden Ortega, Jeronimo Mejia) to discuss corruption. The three that were not invited included Anibal Salas, Alberto Cigaurrista, and Winston Spadafora. Of these Cigaurrista has been linked to illegal activities, and Spadafora had his U.S. visa revoked for corruption in late 2005. Arjona revealed that the six judges agreed to develop a list of corrupt judges and to work together to fire them. If this report is truthful, the meeting would indicate that Mitchell is serious about reform and that he has the support he needs within the Supreme Court.

¶7. (SBU) Mitchell laid out an ambitious vision that will require support from all sectors. While supportive now, stakeholders will ultimately be looking for results. To implement his vision, Mitchell will need an operations group to oversee and implement the various aspects of his

plan. The ability to implement successfully what he has planned will define his effectiveness as Chief Justice.

¶8. (SBU) Feedback that Post has received from people that have met with Mitchell has been uniformly positive. The Attorney General Ana Matilda Gomez noted recently that Mitchell's outreach had led to better coordination between her office and the court, something that she asserted had not taken place under the last president. First VP and FM told Ambassador he was surprised and pleased by Mitchell's invitation to discuss specific concerns about the judiciary that adversely affected foreign investment; "That never happened before." American and Panamanian business leaders have also been favorably impressed by Mitchell's stance on boosting the Court's transparency and effectiveness.
EATON